

**Joint Meeting of the Montgomery County Board of Commissioners
and the
Montgomery County Planning Board
August 25, 2003**

The Montgomery County Board of Commissioners met in a joint session with the Montgomery County Planning Board on Monday, August 25, 2003 at 5:00 p.m. in the commissioners' conference room.

Montgomery County Board of Commissioners present: Chairman Billy Maness, Commissioner Corbett, Commissioner Morris, Commissioner Bostic, and Commissioner Knight.

Montgomery County Planning Board present: Chairman Danny McRae, David Wall, C.R. Williams, Johnny Scarborough, and Alfred Pemberton.

County Commission Chairman Billy Maness called the meeting to order and turned it over to Planning Board Chair Danny McRae.

Chairman McRae explained that there had been some issues that the Twin Harbor Association Board wanted to discuss. Building Inspectors Phil Henley and Pete Hinson were present. Ron Beard and Mike Beaver from the Twin Harbor board were present along with Annette Williams to discuss these issues with the boards.

After a long discussion Phil Henley read the following proposals from the Inspections Department:

Text Amendment:

Page 1, Paragraph 1

Current:

For the purpose of this ordinance, all procedures and processes including authority, enforcement, regulations, and penalties shall follow the same guidelines as issued in the Montgomery County Zoning Ordinance. Before a County permit can be issued a permit from a campground must be issued. A detailed drawing must accompany any request.

Proposed:

For the purpose of this ordinance, all procedures and processes including authority, enforcement, regulations, and penalties shall follow the same guidelines as issued in the Montgomery County Zoning Ordinance. The local authority having jurisdiction solely makes the interpretation of this ordinance. To obtain a permit from the County Inspection Department all accessory buildings and recreational vehicle units must meet setbacks and campground ordinance. A detailed set of plans with a material list is to be furnished to the Inspection Department, also a surveyed plat showing the placement of existing accessory structures and recreational vehicle unit on that lot. No permit shall be issued unless a certified labeled recreational vehicle unit is on the lot.

Page 1, Section 1. Definitions

The following are proposed definitions to be added:

Storage Buildings: Storage buildings are an accessory building. They are to be used as storage type uses only. They are not to be used as habitual areas. No utilities such as water, sewer or power is to be used in a storage building.

Covers/ Pre existing Covers: There shall not be covers of any type over a recreational vehicle unit. Whether site built or prefabricated. Where covers are pre existing, the recreational vehicle unit shall not be enclosed on any side.

Accessory Use: Any building or construction that is secondary to the primary unit. All accessory uses must meet setbacks. Other than a room addition, no accessory building shall have utilities, water, sewer or power connected.

Page 4, Section M, Paragraph #1

The following is proposed to replace current:

1. No structure shall be occupied unless a certified labeled recreational vehicle unit is on the lot.

Page 4, Section M, Paragraph #2

The following is proposed to replace current:

2. Room Additions: Each recreational vehicle unit is allowed a one story addition, not to exceed a height of 14 feet 8 inches to the peak of the roof, which must be built parallel and

beside principle structure. Room additions shall have a maximum width of 12 feet and a maximum length not to exceed the length of the recreational vehicle unit, minus bumpers and tongues. The maximum roof pitch is 4/12. Room additions must be built on a crawl area type foundation. Basements are not allowed in a campground. The room addition cannot be attached to the recreational vehicle unit.

Page 4, Section M, Paragraph #3

The following is proposed to replace current:

3. Decks: Each recreational vehicle unit with or without a room addition may have a deck. The deck may be up to 12 feet wide, and no longer than the recreational vehicle unit, minus the bumper and tongue. Decks shall not be covered either by site built or prefabricated covers, other than a 4 feet by 6 feet total roof area, entrance porch that is allowed. Guardrails shall have a maximum height of 4 feet above the deck floor.

Page 4, Section M, Paragraph #4

The following is proposed to be added:

4. All metal carports/ covers are manufactured designed, prefabricated covers. They may be used to cover vehicles, boats or other similar uses. They shall not be used to cover recreational vehicle units, decks, room additions, or other conflicting uses. These type covers shall meet all setbacks.

Chairman McRae turned the meeting back over to Chairman Maness.

Who is policing the ordinance?

Chairman Maness brought up the next subject of who is policing the ordinance? Mr. Henley said the Inspection Department does. Chairman Maness said if there is a problem, who enforces the ordinance? Mr. Henley said we do. We only can enforce the ordinance. We can not enforce the covenants and the deed restrictions. Mr. Maness asked if Acapulco Drive in Candor is in compliance? Mr. Henley said yes.

There was a question about why Acapulco Drive is in compliance. Mr. Henley explained that the new subdivision rules do not apply to Acapulco Drive (especially the road).

Commissioner Bostic said he has read one of the deeds for Acapulco Drive and it does say in there that the owners will be responsible for the upkeep of the road. He said the same thing happened in Brutonville, at first the owners were keeping up the road because they were excited, but after a while they get tired of keeping the road up.

Chairman Maness asked if the new subdivision off of McCallum Pond Road was going to be paved. Mr. Henley said no, the roads in subdivisions do not have to be paved; they just have to meet the requirements of the Department of Transportation.

The boards then discussed private roads being taken over by the Department of Transportation. Commissioner Morris said that former DOT District Engineer Bill Campbell said he would never take over a private road.

Chairman Maness asked if the other subdivisions are in order? Planning Board member David Wall said most of the complaints we get about subdivisions are law enforcement issues.

Chairman McRae said in the case of this recent subdivision off of McCallum Pond Road, the man exceeded everything. He said some of the lots were 1 ½ acres. He exceeded the ordinance by leaps and bounds. The issue that came before us was did he meet and exceed the Subdivisions Ordinance requirements, and he did.

Commissioner Corbett asked who checks these roads? Mr. McRae said DOT and it is the each lot owners' responsibility to keep the road up.

Planning Board member Clarence Ray Williams asked why did the Planning Board need to waste their time with this if he met all of the requirements. It should have stopped right there.

Commissioner Bostic said we need to petition the Legislature and see if we can get the law changed regarding the Department of Transportation taking over private roads.

Chairman McRae said you can petition the Department of Transportation to take over a private road because he just went through the process.

There was a discussion on how bad the road into Acapulco Drive is and how difficult it is for a police car and ambulance to go on these roads.

Chairman Maness said the commissioners need to help with Acapulco Drive. Commissioner Bostic agreed.

Commissioner Knight asked who is responsible for this road? They pay taxes too. Every citizen deserves to be able to have a police car or ambulance in their area if it is needed. He asked who is responsible? Commissioner Bostic explained that it is not the developers fault or responsibility; it is the owners' responsibility.

Commissioner Bostic said that we need to talk with Harold Matthews and Representative Pryor Gibson.

Commissioner Knight said how do we assess this property. Chairman Maness said that is something we have to talk with Vickie Maness (Tax Administrator) about.

Commissioner Knight said we as boards need to make sure people have what they need. Mr. Henley said the subdivision is in order. Chairman Maness said we need to make sure.

Commissioner Morris said we need to talk with Pryor Gibson to see what we need to do. Commissioner Bostic said that the road has to change from private road status. Mrs. Morris agreed. Chairman McRae said citizens have a certain amount of responsibility. Commissioner Knight said there should be something that says a certain percent has to be sold before the state takes over. Commissioner Morris said we can't do that. Commissioner Knight said the developer needs to pay. Chairman Maness said then citizens wouldn't be able to afford the property. Commissioner Bostic said he can sympathize with those folks.

Grandfathering/Conditional Use Permit

Chairman Maness turned the meeting over to Commissioner Morris. Mrs. Morris said the board has had meetings in the past regarding these issues. She said we talked about them and discussed ordinances in other places. She expressed her concerns with these issues.

Chairman Maness said we all know this is a problem, how do we handle it? Commissioner Corbett said we need to add the conditional use permit back. Chairman Maness said with a time limit.

Commissioner Bostic said we need to remember the true meaning of grandfathering and what a conditions for requesting a conditional use permit. He said to in order to grandfather the structure has to already be there when the ordinance is approved. Mr. Bostic said when requesting a conditional use permit there has to be a good reason and is the condition worthy. Commissioner Morris asked what are the conditions? Commissioner Bostic said hardship and once the hardship has gone the conditional use permit expires. Commissioner Morris said if they have a nice decent place then they will have to move. Commissioners Bostic and Maness said that is why it is a conditional use permit.

Chairman Maness said let's have Lee and Laura get information from other counties for commissioners and the planning board and we will have another joint meeting.

Commissioner Morris said we are putting hardship on our citizens who can't afford stick built homes. Commissioner Corbett said this is a poor rural county. Commissioner Bostic said we don't have the conditional use permit anymore.

Commissioner Morris said grandfathering will take care of all of this. Chairman Maness said we need to get it right. Commissioner Corbett said he agrees with Commissioner Morris.

Commissioner Knight said if the neighbors complain, we should allow it.

Chairman Maness said any changes will have to go through a public hearing. He continued by saying we need to finish this and move on. Commissioner Bostic said we don't have to go by other counties we can do our own rules for zoning.

Age Limits of Mobile Homes

The following is a memo that Mr. Matthews presented to the board:

MEMORANDUM

**TO: MONTGOMERY COUNTY COMMISSIONERS
MONTGOMERY COUNTY PLANNING BOARD**

FROM: LEE MATTHEWS, COUNTY MANAGER

SUBJ: REGULATING MOBILE HOMES BY AGE

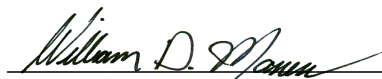
DATE: AUGUST 25, 2003

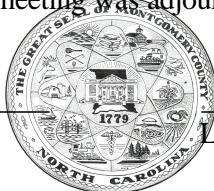
On Friday, August 22, 2003, I spoke with Mr. Richard Ducker of the N.C Institute of Government, whose principle field is zoning, subdivisions and county planning. I asked him if we could zone/regulate mobile homes based on their age. In other words, can we not allow mobile homes older than a certain age, for example not allow anything in an R-3 District older than a 1986 model? Mr. Ducker informed me that a distinction based on age will not pass a legal challenge. He cited an Ohio case where a private trailer park owner tried to limit mobile homes based on age; this was ruled down as an "arbitrary rule". He stated that if the court would rule this way against a "private" regulation it most certainly would rule this way against a "public" regulation. Mr. Ducker stated that we should "steer clear" of this type of regulation. He said we could adopt appearance and dimensional standards, i.e. pitched roofs, underpinning, etc. Also he said that if a mobile home was "newly located" it would have to meet the appearance standards, i.e. if someone moved a 1980 home to a new location it would have to meet whatever appearance standards we had adopted.

I hope this information helps answer some of the questions raised since your last meetings. Please let me know if I can research any other items of interest you may have.

The two boards agreed to have another joint meeting on Tuesday, September 23, 2003 at 4:00 p.m. in the Commissioners Conference Room.

There being no further business, the meeting was adjourned.


William D. Maness, Chairman




Laura B. Morton, Clerk to the Board